

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 541, As Amended

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE THAT THE STATE OF IDAHO SHALL ESTABLISH THE LEGAL PRESENCE OF CERTAIN PERSONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-315, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN PHOTOGRAPHS, TO PROVIDE PROVISIONS RELATING TO CERTAIN MACHINE READABLE INFORMATION, TO PROHIBIT THE USE OF CERTAIN DEVICES OR TECHNIQUES THAT CAN TRANSMIT CERTAIN INFORMATION, TO PROVIDE FOR CONSENT OR VOLUNTARY PARTICIPATION AND TO PROVIDE THAT NO PERSON SHALL UTILIZE CERTAIN SEARCHING TECHNOLOGY TO SEARCH A DATABASE AND TO PROVIDE FOR EXCEPTIONS; AND AMENDING SECTION 49-2444, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CERTAIN PHOTOGRAPHS, TO PROVIDE PROVISIONS RELATING TO CERTAIN MACHINE READABLE INFORMATION AND TO PROHIBIT THE USE OF CERTAIN DEVICES OR TECHNIQUES THAT CAN TRANSMIT CERTAIN INFORMATION, TO PROVIDE FOR CONSENT OR VOLUNTARY PARTICIPATION, TO PROVIDE THAT THE STATE OF IDAHO SHALL ESTABLISH THE LEGAL PRESENCE OF CERTAIN PERSONS, TO PROVIDE THAT NO PERSON SHALL UTILIZE CERTAIN SEARCHING TECHNOLOGY TO SEARCH A DATABASE AND TO PROVIDE FOR EXCEPTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 49-303, Idaho Code, be, and the same is hereby amended to read as follows:

49-303. WHAT PERSONS SHALL NOT BE LICENSED. The department shall not issue any driver's license, any instruction permit, privileges or right to drive and, if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years, except that the department may issue a driver's license to any person who has successfully completed an approved driver's training course, has completed the requirements of a class D supervised instruction permit, and who is at least fifteen (15) years of age, with driving privileges restricted to daylight hours only except as provided in section 49-307(9), Idaho Code, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. If a person who is at least fifteen (15) years but is under seventeen (17) years of age has successfully completed an approved driver's training course and has been issued a driver's license in another state, he may be issued a class D driver's license in this state. Provided however, that a restricted school attendance driving permit may be issued to those persons meeting the criteria set forth in section 49-307A, Idaho Code.

(2) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years and has not successfully completed

1 an approved driver's training course and has not satisfied the requirements
 2 of a class D supervised instruction permit. Provided however, that a
 3 restricted school attendance driving permit may be issued to those persons
 4 meeting the criteria set forth in section 49-307A, Idaho Code.

5 (3) As an operator of a commercial vehicle requiring a class A, B or C
 6 driver's license is under the age of eighteen (18) years.

7 (4) Applicants with less than one (1) year of driving experience, as ev-
 8 idenced by a previous driver's license, shall not be issued a class A, B or C
 9 driver's license or a class A, B or C instruction permit.

10 (5) As a driver, has had his license, class D instruction permit,
 11 restricted school attendance driving permit, privileges or right to drive
 12 suspended for the duration of the suspension, nor to any person who has
 13 had his class D driver's training instruction permit or class D supervised
 14 instruction permit canceled for the duration of the cancellation, nor to any
 15 person whose license has been revoked, suspended, canceled or disqualified
 16 by this state or any other jurisdiction; provided however, where a driver's
 17 license has been revoked, suspended, canceled or disqualified in any other
 18 jurisdiction, and the driver has completed the period of revocation, suspen-
 19 sion, cancellation or disqualification as specified by the jurisdiction,
 20 that person may be granted a class D driver's license in this state if
 21 five (5) years have elapsed from the time of eligibility for reinstatement
 22 in the other jurisdiction, even though the driver has not fulfilled the
 23 requirements for reinstatement in the other jurisdiction.

24 (6) Has been adjudged by a court of competent jurisdiction to be an ha-
 25 bitual drunkard or addicted to the use of narcotic drugs, and such order has
 26 been received by the department.

27 (7) Has been adjudged by a licensed physician or by a court of compe-
 28 tent jurisdiction to be afflicted with or suffering from any mental incompe-
 29 tence that would affect the person's ability to safely operate a motor vehi-
 30 cle and who has not at the time of application been restored to competency by
 31 the methods provided by law, and such order has been received by the depart-
 32 ment.

33 (8) Is required by the provisions of this chapter to take an examina-
 34 tion, unless that person shall have successfully passed such examination.

35 (9) May be required under any law of this state to furnish proof of fi-
 36 nancial responsibility and who has not furnished that proof.

37 (10) The department has good cause to believe that the operation of a mo-
 38 tor vehicle on the highways by that person would be harmful to public safety
 39 or welfare.

40 (11) Is disqualified for a class A, B or C driver's license, except he
 41 may be issued a class D driver's license.

42 (12) Is under eighteen (18) years of age and is not enrolled in school,
 43 has not received a waiver pursuant to or has not satisfactorily completed
 44 school as provided in section 49-303A, Idaho Code.

45 (13) Is not a resident of the state of Idaho.

46 (14) Is not lawfully present in the United States.

47 The state of Idaho shall establish the legal presence of persons from those
 48 states known to issue driver's licenses or identity credentials to illegal
 49 aliens prior to issuing an Idaho driver's license.

SECTION 2. That Section 49-315, Idaho Code, be, and the same is hereby amended to read as follows:

49-315. LICENSES ISSUED TO DRIVERS. (1) The department shall issue to every qualifying applicant a distinguishing driver's license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant's signature. Driver's licenses for persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and driver's licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." No driver's license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver's license shall bear a ~~color~~ photograph of the licensee, which shall be taken by the examiner at the time the application is made. The department shall use a color photograph, unless the department determines that using a black and white photograph is as effective as a color photograph for identification purposes. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver's license may contain a statement or indication of the medical condition of the licensee. Machine readable information included in the two-dimensional bar code shall contain no other information about the person other than the person's full legal name and the human readable information printed on the card including any code identifiers used to organize such data. No driver's license shall employ any device or technique that can transmit information to any distance from the license without the express consent or voluntary participation of the license bearer.

(3) No person shall utilize a one-to-many facial recognition searching technology to search the driver's license database of photographs, unless under the authority of a court order related to a specific crime or in an investigation of a specific crime when the alleged perpetrator is a flight risk and a court order will be timely sought.

(4) The department shall notify the commercial driver license information system that a class A, B or C driver's license has been issued as required by 49 CFR parts 383 and 384.

(45) A licensee applying for a hazardous material endorsement on a driver's license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(56) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title

39, Idaho Code, may, at the option of the donor, indicate this desire on the driver's license by the imprinting of the word "donor" on the license. The provisions of this subsection shall apply to licensees sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with and the donor indicates this desire be placed on the license.

(67) A licensee who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the driver's license, provided the licensee presents written certification from a licensed physician verifying that the licensee's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

SECTION 3. That Section 49-2444, Idaho Code, be, and the same is hereby amended to read as follows:

49-2444. IDENTIFICATION CARD ISSUED -- FOUR-YEAR OR EIGHT-YEAR. (1) The department shall issue a distinguishing identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant's social security number. An applicant's social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant's full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a ~~color~~ photograph of the applicant which shall be taken by the examiner at the time of application. The department shall use a color photograph, unless the department determines that using a black and white photograph is as effective as a color photograph for identification purposes. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant. Machine readable information included in the two-dimensional bar code shall contain no other information about the person other than the person's full legal name and the human readable information printed on the card including any code identifiers used to organize such data. No identification card shall employ any device or technique that can transmit information to any distance from the identification card without the express consent or voluntary participation of the identification card bearer.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by

1 any other jurisdiction within the United States, or until he executes an af-
2 fidavit that he does not possess an identification card or any driver's li-
3 cense.

4 Identification cards issued to persons under eighteen (18) years of age
5 shall include a notation "under 18 until (month, day, year)," and identifi-
6 cation cards issued to persons eighteen (18) years of age to twenty-one (21)
7 years of age shall include a notation "under 21 until (month, day, year)."
8 The nonrefundable fee for a four-year identification card issued to persons
9 twenty-one (21) years of age or older shall be ten dollars (\$10.00) of which
10 five dollars (\$5.00) shall be retained by the county and credited to the cur-
11 rent expense fund, and five dollars (\$5.00) shall be deposited in the state
12 treasury to the credit of the highway distribution account. The nonrefund-
13 able fee for identification cards issued to persons under twenty-one (21)
14 years of age shall be ten dollars (\$10.00), of which five dollars (\$5.00)
15 shall be retained by the county and credited to the current expense fund, and
16 five dollars (\$5.00) shall be deposited in the state treasury to the credit
17 of the highway distribution account. The nonrefundable fee for an eight-
18 year identification card shall be twenty dollars (\$20.00) of which ten dol-
19 lars (\$10.00) shall be retained by the county and credited to the current ex-
20 pense fund, and ten dollars (\$10.00) shall be deposited in the state treasury
21 to the credit of the highway distribution account. At the option of the ap-
22 plicant, the identification card issued to a person twenty-one (21) years of
23 age or older shall expire either on the cardholder's birthday in the fourth
24 year or the eighth year following issuance of the card, except as otherwise
25 provided in subsection (3) of this section. Every identification card is-
26 sued to a person under eighteen (18) years of age shall expire five (5) days
27 after the person's eighteenth birthday, except as otherwise provided in sub-
28 section (3) of this section. Every identification card issued to a person
29 eighteen (18) years of age but under twenty-one (21) years of age shall ex-
30 pire five (5) days after the person's twenty-first birthday, except as oth-
31 erwise provided in subsection (3) of this section.

32 Individuals required to register in compliance with section 3 of the
33 federal military selective service act, 50 U.S.C. App. 451 et seq., as
34 amended, shall be provided an opportunity to fulfill such registration
35 requirements in conjunction with an application for an identification
36 card. Any registration information so supplied shall be transmitted by the
37 department to the selective service system.

38 (2) Every identification card, except those issued to persons under
39 twenty-one (21) years of age, shall be renewable on or before its expiration,
40 but not more than twelve (12) months before, and upon application and payment
41 of the required fee.

42 (3) Every identification card issued to a person who is not a citizen or
43 permanent legal resident of the United States shall have an expiration date
44 that is the same date as the end of lawful stay in the United States as indi-
45 cated on documents issued and verified by the department of homeland secu-
46 rity, provided however, that the expiration date shall not extend beyond the
47 expiration date for the same category of identification card issued to citi-
48 zens. Persons whose department of homeland security documents do not state
49 an expiration date shall be issued an identification card with an expiration
50 date of one (1) year from the date of issuance.

1 (4) When an identification card has been expired for less than twelve
2 (12) months, the renewal of the identification card shall start from the
3 original date of expiration regardless of the year in which the application
4 for renewal is made. If the identification card is expired for more than
5 twelve (12) months, the application shall expire, at the option of the
6 applicant, on the applicant's birthday in the fourth year or the eighth
7 year following reissuance of the identification card, except as otherwise
8 provided in subsection (3) of this section.

9 (5) A person possessing an identification card who desires to donate
10 any or all organs or tissue in the event of death, and who has completed a
11 document of gift pursuant to the provisions for donation of anatomical gifts
12 as set forth in chapter 34, title 39, Idaho Code, may, at the option of the
13 donor, indicate this desire on the identification card by the imprinting of
14 the word "donor" on the identification card. The provisions of this subsec-
15 tion shall apply to persons possessing an identification card who are six-
16 teen (16) years of age or older but less than eighteen (18) years of age if
17 the requirements provided in chapter 34, title 39, Idaho Code, have been com-
18 plied with.

19 (6) A person possessing an identification card or an applicant for an
20 identification card who is a person with a permanent disability may request
21 that the notation "permanently disabled" be imprinted on the identification
22 card, provided the person presents written certification from a licensed
23 physician verifying that the person's stated impairment qualifies as a
24 permanent disability according to the provisions of section 49-117, Idaho
25 Code.

26 (7) In the case of a name change, the applicant shall provide legal doc-
27 umentation to verify the change in accordance with department rules.

28 (8) Whenever any person, after applying for or receiving an identifi-
29 cation card, shall move from the address shown on the application or on the
30 identification card issued, that person shall, within thirty (30) days, no-
31 tify the transportation department in writing of the old and new addresses.

32 (9) The department shall cancel any identification card upon determin-
33 ing that the person was not entitled to the issuance of the identification
34 card, or that the person failed to give the required and correct information
35 in his application or committed fraud in making the application. Upon can-
36 cellation, the person shall surrender the canceled identification card to
37 the department.

38 (10) If any person shall fail to return to the department the identifi-
39 cation card as required, the department may direct any peace officer to se-
40 cure its possession and return the identification card to the department.

41 (11) The department may issue a no-fee identification card to an indi-
42 vidual whose driver's license has been canceled and voluntarily surrendered
43 as provided in section 49-322(4), Idaho Code. The identification card may be
44 renewed at no cost to the applicant as long as the driver's license remains
45 canceled.

46 (12) It is an infraction for any person to fail to notify the department
47 of a change of address as required by the provisions of subsection (8) of this
48 section.

1 (13) The state of Idaho shall establish the legal presence of persons
2 from those states known to issue driver's licenses or identity credentials
3 to illegal aliens prior to issuing an Idaho identification card.

4 (14) No person shall utilize a one-to-many facial recognition search-
5 ing technology to search the identification card database of photographs,
6 unless under the authority of a court order related to a specific crime or in
7 an investigation of a specific crime when the alleged perpetrator is a flight
8 risk and a court order will be timely sought.